IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

RSA No. 1435 of 2006
Date of Decision: 2.4.2007

Gurcharan Singh ...Appellant

Versus

Punjab State Electricity Board and others ....Respondents

Coram: Hon'ble Mr. Justice Hemant Gupta.

Present: Shri Arshdeep Singh, Advocate, for
Shri R.S. Dhaliwal, Advocate, for the appellant.

Shri Ashish Verma, Advocate, for the respondents.

HEMANT GUPTA, J.

The following substantial question of law arises for consideration in the present appeal:-

> "Whether the Civil Court has the jurisdiction to entertain the suit against the Punjab State Electricity Board?"

The plaintiff-appellant has filed a suit for declaration that he is consumer of electric connection bearing No. SP49-0211 and that the notice dated 24.12.2002 issued by defendant No.2 regarding theft of electricity is illegal. The suit has been dismissed by both the Courts below on the ground that the Civil Court has no jurisdiction relying upon the Supreme Court's judgment reported as **Ashwani Kumar Vs. PSEB 1997(1) SC 182.**

A Full Bench of this Court in **M/s Ranbaxy Laboratories Ltd. Vs. Punjab State Electricity Board, Patiala 2004(2) PLR 101,** has held that the Civil Court has the jurisdiction to entertain the suit in respect of the action initiated by the Electricity Board. The said

judgment was referred to before the learned first Appellate Court but the same has not been followed by the learned first Appellate Court by relying upon the judgment of the Hon'ble Supreme Court in **Calcutta Electric Supply Corporation Ltd. v. N.M. Banka and another 1997(1) Apex Court Journal 218** wherein it was held that it is not proper for the Court to direct the appellant to supply the electricity to a defaulter by way of interim orders and the Court should have directed the consumer to avail the statutory remedy.

The said reasoning is patently erroneous. The Full Bench of this Court in **Ranbaxy's case (supra)** has held that the Civil Court has the jurisdiction to entertain the suit and the dispute settlement commission contemplated to be provided under the circular issued by the Department cannot bar the jurisdiction of the Civil Court. In fact the judgment of the Hon'ble Supreme Court in **N.M. Banka's case (supra),** was a case where the interim order passed by a writ Court was subject matter of challenge before the Hon'ble Supreme Court. It could not be explained as to how such judgment is applicable to the facts of the present case.

Consequently, the judgment and decree passed by the learned first Appellate Court is set aside. The matter is remitted back to the learned first Appellate Court for decision of appeal on merits, in accordance with law.

The parties, through their counsel are directed to appear before the learned first Appellate Court on 7.5.2007.

02-04-2007 (HEMANT GUPTA)
ds JUDGE